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14 *Attorneys for Plaintiffs and the Proposed Class*

15 **UNITED STATES DISTRICT COURT FOR THE**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 ADINA RINGLER, KRISTA
18 ROBLES, JAY SMITH, and JANA
19 RABINOWITZ, individually and on
20 behalf of all others similarly situated,

21 Plaintiffs,

22 v.

23 THE J.M. SMUCKER COMPANY,

24 Defendant.

25 Case No. 2:25-cv-01138-AH-E

26 **FIRST AMENDED CLASS ACTION
27 COMPLAINT**

28 **DEMAND FOR JURY TRIAL**

1 Plaintiffs Adina Ringler, Krista Robles, Jay Smith, and Jana Rabinowitz
2 (“Plaintiffs”) individually and on behalf of all others similarly situated, by and
3 through undersigned counsel, hereby brings this action against The J.M. Smucker
4 Company (“Defendant”), and upon information and belief and investigation of
5 counsel, alleges as follows:

6 **INTRODUCTION**

7 1. This is a consumer class action for violations of the California
8 Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* (“CLRA”),
9 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*
10 (“UCL”), and breach of express warranties.

11 2. Defendant manufactures, distributes, advertises, and sells a line of
12 Smucker’s Natural Fruit Spread products, available in both jar and squeezable
13 packaging. The Products at issue include Smucker’s Natural Apricot Fruit Spread,
14 Smucker’s Natural Blackberry Fruit Spread, Smucker’s Natural Blueberry Fruit
15 Spread, Smucker’s Natural Tart Red Cherry Fruit Spread, Smucker’s Natural
16 Concord Grape Fruit Spread, Smucker’s Natural Orange Marmalade Fruit Spread,
17 Smucker’s Natural Red Raspberry Fruit Spread, Smucker’s Natural Strawberry
18 Fruit Spread, Smucker’s Natural Triple Berry Fruit Spread, Smucker’s Natural
19 Concord Grape Squeezable Fruit Spread, Smucker’s Natural Red Raspberry
20 Squeezable Fruit Spread, and Smucker’s Natural Strawberry Squeezable Fruit
21 Spread (the “Products”).

22 3. The Products’ front labels contain images of fresh fruit and
23 prominently represent that the Products are “**natural**” and “**made with**
24 **ingredients FROM NATURAL SOURCES.**”

25 4. These representations are false because the Products contain citric
26 acid, an artificial ingredient not made from natural sources.

27 5. Defendant’s packaging, labeling, and advertising scheme is intended
28 to give consumers the reasonable belief that they are buying premium Products

1 that are natural, made with ingredients from natural sources, and free from
2 artificial ingredients.

3 6. Like other reasonable consumers, Plaintiffs were deceived by
4 Defendant's unlawful conduct and brings this action individually and on behalf of
5 all similarly situated consumers to remedy Defendant's unlawful acts.

JURISDICTION AND VENUE

7. This Court has original jurisdiction over this action pursuant to 28
U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100
members in the proposed class; (2) members of the proposed class have a different
citizenship from Defendant; and (3) the claims of the proposed class members
exceed \$5,000,000 in the aggregate, exclusive of interest and costs. The Products
are sold at numerous retail stores and Plaintiffs are seeking to represent a
nationwide class. Thus, there are over 100 members in the proposed class and the
proposed class has different citizenships from Defendant. Plaintiffs seek
compensatory and statutory damages, disgorgement and restitution. Plaintiff also
seeks attorneys' fees and costs. *See Montera v. Premier Nutrition Corp.*, No. 16-
CV-06980-RS, 2022 WL 10719057, at *3 (N.D. Cal. Oct. 18, 2022), *aff'd*, 111
F.4th 1018 (9th Cir. 2024) (noting lodestar after jury trial in consumer protection
action was \$6,806,031.96). Thus, Plaintiffs estimate that the amount in
controversy exceeds \$5 million.

21 8. This Court has personal jurisdiction over Defendant because
22 Defendant conducts and transacts business in the State of California, contracts to
23 supply goods within the State of California and supplies goods within the State of
24 California. Defendant, on its own and through its agents, is responsible for the
25 distribution, marketing, labeling, and sale of the Products in California,
26 specifically in this county. The marketing of the Products, including the decision
27 of what to include and not include on the label, emanates from Defendant. Thus,
28 Defendant has intentionally availed itself of the markets within California through

1 its advertising, marketing, and sale of the Products to consumers in California,
2 including Plaintiffs. The Court also has specific jurisdiction over Defendant as it
3 has purposefully directed activities towards the forum state, Plaintiffs' claims arise
4 out of those activities, and it is reasonable for Defendant to defend this lawsuit
5 because it has sold deceptively advertised Products to Plaintiffs and members of
6 the Class in California. By distributing and selling the Products in California,
7 Defendant has intentionally and expressly aimed conduct at California which
8 caused harm to Plaintiffs and the Class that Defendant knows is likely to be
9 suffered by Californians.

10 9. Venue is proper pursuant to 28 U.S.C. § 1331(b) because a substantial
11 part of the events or omissions giving rise to the claim occurred in this District
12 since Plaintiff Ringler purchased the Products within this District.

13 **PARTIES**

14 10. Defendant is an Ohio company with its principal place of business
15 located at 1 Strawberry Lane, Orrville, OH 44667. At all times during the class
16 period, Defendant was the manufacturer, distributor, marketer, and seller of the
17 Products.

18 11. Plaintiff Adina Ringler purchased the Smucker's Natural Triple Berry
19 Fruit Spread product from a Smart & Final store in Northridge, California in or
20 around May 2024. When purchasing the Product, Plaintiff Ringler did not expect
21 that the Product's front label "natural" and "made with ingredients from natural
22 sources" representations were false. Plaintiff Ringler did not expect Defendant to
23 publicly place deceptive statements about the contents of its Products on the front
24 label of the Product.

25 12. Plaintiff Krista Robles occasionally purchased the Smucker's Natural
26 Strawberry Fruit Spread Product from retail stores near her home in Anaheim,
27 California during the putative class period. Plaintiff Robles last purchased the
28 Smucker's Natural Strawberry Fruit Spread Product in the Summer of 2025. When

1 purchasing the Product, Plaintiff Robles did not expect that the Product's front
2 label "natural" and "made with ingredients from natural sources" representations
3 were false. Plaintiff Reed did not expect Defendant to publicly place deceptive
4 statements about the contents of its Product on the front label of the Product.

5 13. Plaintiff Jay Smith occasionally purchased the Smucker's Natural
6 Red Raspberry Fruit Spread Product from retail stores near his home in Dixon,
7 California during the putative class period. Plaintiff Smith last purchased the
8 Smucker's Natural Red Raspberry Fruit Spread Product in approximately June of
9 2025. When purchasing the Product, Plaintiff Smith did not expect that the
10 Product's front label "natural" and "made with ingredients from natural sources"
11 representations were false. Plaintiff Smith did not expect Defendant to publicly
12 place deceptive statements about the contents of its Product on the front label of
13 the Product.

14 14. Plaintiff Jana Rabinowitz purchased the Smucker's Natural
15 Strawberry Fruit Spread product from a retail store near her home in Bayville, New
16 York around the beginning of 2025. When purchasing the Product, Plaintiff
17 Rabinowitz did not expect that the Product's front label "natural" and "made with
18 ingredients from natural sources" representations were false. Plaintiff Rabinowitz
19 did not expect Defendant to publicly place deceptive statements about the contents
20 of its Products on the front label of the Product.

21 15. Plaintiffs saw and relied on the "natural" and "made with ingredients
22 from natural sources" claims on the front label of the Products. Plaintiffs would
23 not have purchased the Products, or would have paid less for the Products, had
24 they known that the Products contains an artificial ingredient in direct
25 contradiction to the "natural" and "made with ingredients from natural sources"
26 statements on the Products' label.

27 16. As a result, Plaintiffs suffered injury in fact when they spent money
28 purchasing Products they would not have purchased, or would have paid less for,

1 absent Defendant's misconduct.

2 **FACTUAL ALLEGATIONS**

3 17. The Products' front labels contain images of fresh fruit and
4 prominently represent that the Products are "natural" and "made with ingredients
5 from natural sources" thereby misleading reasonable consumers into believing that
6 the Products contain only natural ingredients and are free from artificial
7 ingredients. However, the Products contain citric acid, an artificial ingredient not
8 made from natural sources.

9 18. The Products' front labels also contain a list of undesired items that
10 the Products boastfully do not contain, including "Non-GMO," "NO High
11 Fructose Corn Syrup," and "NO artificial flavors or colors."

12 19. True and correct copies of the Smucker's Natural Triple Berry Fruit
13 Spread product's front and rear labels are shown below:

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20. True and correct copies of the Smucker's Natural Concord Grape
21 Squeezable Fruit Spread product's front and rear labels are shown below:

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THE CITRIC ACID IN THE PRODUCTS IS NOT NATURAL

21. Defendant uses artificial manufactured citric acid in the Products.¹

¹ Iliana E. Sweis, et al., *Potential role of the common food additive manufactured citric acid in eliciting significant inflammatory reactions contributing to serious*

1 Commercial food manufacturers use a synthetic form of citric acid that is derived
2 from heavy chemical processing.² Commercially produced citric acid is
3 manufactured using a type of black mold called *Aspergillus niger* which is
4 modified to increase citric acid production.³ Consumption of manufactured citric
5 acid has been associated with adverse health events like joint pain with swelling
6 and stiffness, muscular and stomach pain, as well as shortness of breath.⁴
7 Defendant does not use natural citric acid extracted from fruit in the Products. This
8 is because “[a]proximately 99% of the world’s production of [citric acid] is carried
9 out using the fungus *Aspergillus niger* since 1919.” *Id.* As explained by a study
10 published in the *Toxicology Reports Journal*:

11 Citric acid naturally exists in fruits and vegetables. However, **it is not**
12 **the naturally occurring citric acid, but the manufactured citric**
13 **acid (MCA) that is used extensively as a food and beverage**
14 **additive.** Approximately 99% of the world’s production of MCA is
15 carried out using the fungus *Aspergillus niger* since 1919. *Aspergillus*
16 *niger* is a known allergen.⁵

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18 22. A technical evaluation report for citric acid compiled by the United
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disease states: A series of four case reports, TOXICOL REP. 5:808-812 (2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6097542/>

² A. Hesham, Y. Mostafa & L. Al-Sharqi, *Optimization of Citric Acid Production by Immobilized Cells of Novel Yeast Isolates*, 48 MYCOBIOLOGY 122, 123 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7178817/>

³ *Id.*; Pau Loke Show, *et al.*, *Overview of citric acid production from Aspergillus niger*, FRONTIERS IN LIFE SCIENCE, 8:3, 271-283 (2015), available at <https://www.tandfonline.com/doi/full/10.1080/21553769.2015.1033653>

⁴ Iliana E. Sweis, *et al.*, *Potential role of the common food additive manufactured citric acid in eliciting significant inflammatory reactions contributing to serious disease states: A series of four case reports*, TOXICOL REP. 5:808-812 (2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6097542/>

⁵ *Id.* (emphasis added)

1 States Department of Agriculture Marketing Servies (“USDA AMS”) further
2 explains that it is not commercially feasible to use natural citric acid extracted from
3 fruits:

4 “Traditionally by extraction from citrus juice, [is] no longer
5 commercially available. It is now extracted by fermentation of a
6 carbohydrate substance (often molasses) by citric acid bacteria,
7 *Aspergillus niger* (a mold) or *Candida guilliermondii* (a yeast).
8 Citric acid is recovered from the fermentation broth by a lime
9 and sulfuric acid process in which the citric acid is first
precipitated as a calcium salt and then reacidulated with sulfuric
acid.”⁶

10 23. When asked “Is this substance Natural or Synthetic?” USDA AMS
11 reviewers state: “synthetic.”⁷

12 24. The FDA has determined that manufactured citric acid is not natural;
13 it is artificial. The FDA sent warning letters to Hirzel Canning Company and Oak
14 Tree Farm Dairy, Inc., for similar violations, saying that the FDA’s policy
15 involving the use of the word natural means that nothing artificial or synthetic has
16 been added to the product, and that a product that labels itself “100% Natural” or
17 “All Natural” violates that policy if it contains citric acid, and that the presence of
18 citric acid precludes the use of the term natural to describe the product.⁸

19 25. The FDA explains that the “Solvent extraction process for citric acid”
20 is accomplished via “recovery of citric acid from conventional *Aspergillus*
21 *niger* fermentation liquor may be safely used to produce food-grade citric acid in
22 accordance with the following conditions: (a) The solvent used in the process
23 consists of a mixture of *n*- octyl alcohol meeting the requirements of § 172.864 of
24 this chapter, ***synthetic*** isoparaffinic petroleum hydrocarbons meeting the

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26 ⁶ **Exhibit D** at page 6.

27 ⁷ **Exhibit D** at pages 4-5.

28 ⁸ *See Exhibit B* at page 2 and **Exhibit C** at page 2.

1 requirements of § 172.882 of this chapter, and tridodecyl amine. 12 C.F.R. §
2 173.280 (emphasis added). Chemical solvents such as n-octyl alcohol and
3 synthetic isoparaffinic petroleum hydrocarbons are used to extract the citric acid
4 that Defendant uses in the Products from *aspergillus niger* fermentation liquor.
5 See 21 C.F.R. § 173.280. The citric acid that Defendant uses in the Products is
6 produced through chemical solvent extraction and contains residues of those
7 chemical solvents.

8 26. The *Toxicology Reports Journal* study explains that “the potential
9 presence of impurities or fragments from the *Aspergillus niger* in [manufactured
10 citric acid] is a significant difference that may trigger deleterious effects when
11 ingested.”⁹ The study further explains:

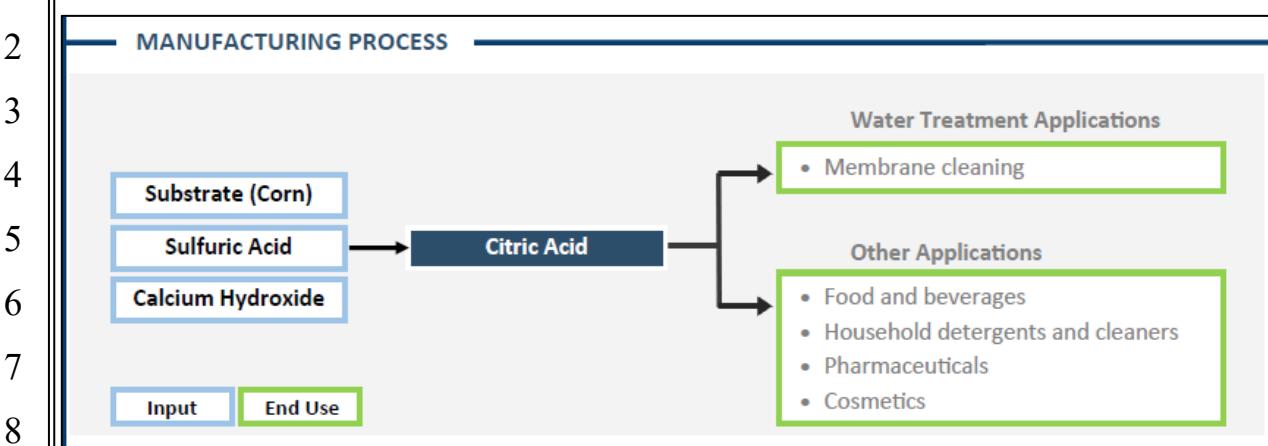
12 “Given the thermotolerance of *A. niger*, there is great potential that
13 byproduct of *A. niger* remain in the final [manufactured citric acid]
14 product. Furthermore, given the pro-inflammatory nature of *A. niger*
15 even when heat-killed, repetitive ingestion of [manufactured citric acid]
16 may trigger sensitivity or allergic reactions in susceptible individuals.
Over the last two decades, there has been a significant rise in the
incidence of food allergies” *Id.*

17 27. The EPA provides the following simply schematic of the
18 manufacturing process for citric acid which includes the use of synthetic solvents
19 like Sulfuric Acid:¹⁰

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24 ⁹ Iliana E. Sweis, et al., *Potential role of the common food additive manufactured*
25 *citric acid in eliciting significant inflammatory reactions contributing to serious*
26 *disease states: A series of four case reports*, TOXICOL REP. 5:808-812 (2018),
available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6097542/>

27 ¹⁰ <https://www.epa.gov/system/files/documents/2023-03/Citric%20Acid%20Supply%20Chain%20Profile.pdf>.



28. Dr. Ryan Monahan, a prominent functional medicine practitioner, notes that the “[p]resent day process of creating manufactured citric acid involves feeding sugars derived from GMO corn to black mold, which then ferments to form manufactured citric acid.”¹¹.

29. Dr. Monahan also notes that “*Aspergillus niger* is associated with systemic inflammatory issues, including respiratory, gastrointestinal, neurological and musculoskeletal. Due to the potential for fragments of *Aspergillus niger* to make their way into the finished product of manufactured citric acid, this toxic inflammatory substance is likely being ingested by consumers of Products containing citric acid. Even with high-heat processing to kill it, research has shown *Aspergillus niger* can still elicit an inflammatory response.”¹²

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¹¹ Dr. Ryan Monahan, *Citric Acid: A Common Food Additive With An Uncommon Source* (2024) available at <https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-additive-with-an-uncommon-source> (Last visited May 15, 2024).

¹² Dr. Ryan Monahan, *Citric Acid: A Common Food Additive With An Uncommon Source* (2024) available at <https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-additive-with-an-uncommon-source>.

1 30. Clinical nutritionist Serge Gregoire, notes that [f]ood manufacturers
2 leave out that citric acid is derived from genetically modified black mold grown
3 on GMO corn syrup” and that “[c]ompanies continuously capitalize on an
4 ignorance-based market.”¹³ Gregoire states, “Citric acid production has become a
5 refined and highly prized industrial process.” Gregoire note that the *Aspergillus*
6 *niger* used to produce citric acid is engineered to increase production of citric acid
7 which has “resulted in countless generations of genetically modified mutant
8 variants, now specialized for industrial-scale economics.”

9 31. “Further genetic modification in the lab has taken place through the
10 engineering of the glycolytic pathway, resulting in a metabolic-streamlining that
11 facilitates greater citric acid production from sugar while shutting off side avenues
12 of glycolysis.” *Id.*

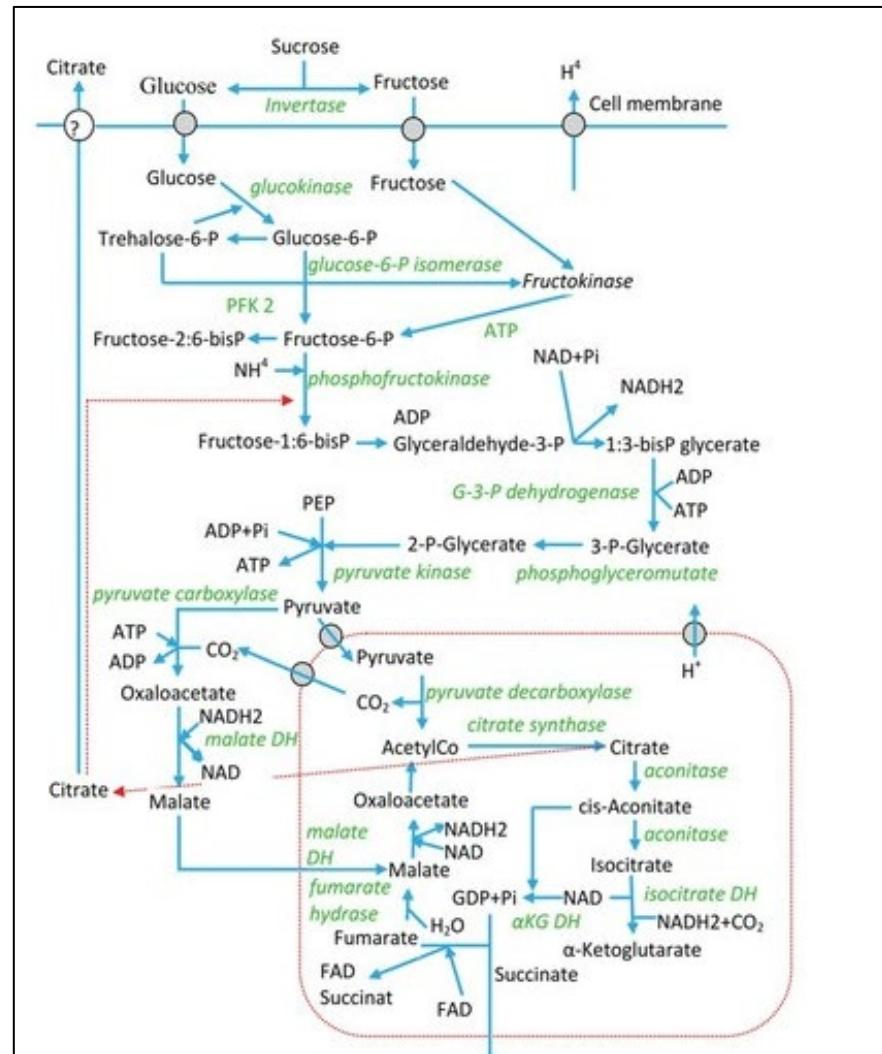
13 32. “Mutagenesis has been used in recent years to improve the citric-acid
14 producing strains so that they can be used in industrial applications. The most
15 common methods include the use of mutagens to induce mutations on the parental
16 strains. The mutagens utilized for improvements are gamma radiation, ultraviolet
17 radiation and often chemical mutagens. For hyperproducer strains, a hybrid
18 method that combines ultraviolet and chemical mutagens is used (Ratledge &
19 Kristiansen Citation2001).”¹⁴

20 33. Below is a schematic representation of the metabolic reactions
21 involved in citric acid production, the enzymes (italics), the known feedback loops
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24 ¹³ Serge Gregoire, Avoid citric acid: a mold byproduct! (July 13, 2021) *available*
25 at <https://www.linkedin.com/pulse/avoid-citric-acid-mold-byproduct-serge-gregoire/>

26 ¹⁴ Show, P. L., Oladele, K. O., Siew, Q. Y., Aziz Zakry, F. A., Lan, J. C. W., &
27 Ling, T. C. (2015). Overview of citric acid production from *Aspergillus niger*.
28 FRONTIERS IN LIFE SCIENCE, 8(3), 271–283, *available* at
<https://doi.org/10.1080/21553769.2015.1033653>

1 (dashed lines) and their locations within the cellular structure of *Aspergillus*
 2 *niger*:¹⁵



20 34. Dictionary definitions define “artificial” as something made by man.
 21 For example, “artificial” is defined as “made by human skill; produced by humans
 22 ...”¹⁶ Merriam-Webster’s online dictionary states that “artificial” means “humanly
 23 contrived ...”¹⁷ Cambridge Dictionary states that “artificial” means “made by

25 ¹⁵ *Id.* at Figure 3.

26 ¹⁶ *Artificial*, DICTIONARY.COM, available at
 27 <https://www.dictionary.com/browse/artificial>

28 ¹⁷ *Artificial*, MERRIAM-WEBSTER’S DICTIONARY, available at
<https://www.merriam-webster.com/dictionary/artificial>

1 people, often as a copy of something natural.”¹⁸

2 35. Below are images of the chemical process used to create citric acid
3 for use in food – a process that is visibly artificial:



20 36. Citric acid acts as an artificial flavoring and preserving agent when
21 added to food products, including the Products at issue.¹⁹ Citric acid has a sour,
22 acidic, and slightly tart flavor. *Id.*

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25 ¹⁸Artificial, CAMBRIDGE DICTIONARY, available at
26 <https://dictionary.cambridge.org/us/dictionary/english/artificial>

27 ¹⁹ <https://www.webstaurantstore.com/blog/3350/what-is-citric-acid.html#:~:text=What%20Is%20Sour%20Salt?,salt%20tastes%20sour%20and%20acidic.>

1 37. The Food and Drug Administration (“FDA”) defines a preservative
 2 as “any chemical that, when added to food, tends to prevent or retard deterioration
 3 thereof, but does not include common salt, sugars, vinegars, spices, or oils
 4 extracted from spices, substances added to food by direct exposure thereof to wood
 5 smoke, or chemicals applied for their insecticidal or herbicidal properties.” 21
 6 C.F.R. §101.22(a)(5). The FDA has listed citric acid as a preservative in its
 7 “Overview of Food Ingredients, Additives and Colors” as shown below:²⁰

Types of Ingredients	What They Do	Examples of Uses	Names Found on Product Labels
Preservatives	Prevent food spoilage from bacteria, molds, fungi, or yeast (antimicrobials); slow or prevent changes in color, flavor, or texture and delay rancidity (antioxidants); maintain freshness	Fruit sauces and jellies, beverages, baked goods, cured meats, oils and margarines, cereals, dressings, snack foods, fruits and vegetables	Ascorbic acid, citric acid , sodium benzoate, calcium propionate, sodium erythorbate, sodium nitrite, calcium sorbate, potassium sorbate, BHA, BHT, EDTA, tocopherols (Vitamin E)

13 38. In a warning letter sent to Chiquita Brands International, Inc. and
 14 Fresh Express, Inc., the FDA warned that certain Products were misbranded under
 15 the Federal Food Drug and Cosmetics Act because they “contain the *chemical*
 16 *preservatives ascorbic acid and citric acid* but their labels fail to declare these
 17 *preservatives* with a description of their functions. 21 C.F.R. [§] 101.22”
 18 (emphasis added).²¹

19 39. The USDA’s Food Safety Inspection Service’s “Guideline for Label
 20 Approval” states that “common *chemical* preservatives include BHA, BHT,
 21 calcium propionate, citric acid, natamycin and sodium propionate.”²²

23 ²⁰ *Overview of Food Ingredients, Additives & Colors*, FOOD AND DRUG
 24 ADMINISTRATION, available at
 25 https://web.archive.org/web/20220901032454/http://www.fda.gov/food/food-
 ingredients-packaging/overview-food-ingredients-additives-colors

26 ²¹ See **Exhibit A** at page 2 (highlighted).

27 ²² FSIS Guideline for Label Approval, UNITED STATES DEPARTMENT OF
 28 AGRICULTURE, available at

1 **REASONABLE CONSUMERS ARE DECEIVED AND SUFFERED ECONOMIC INJURY**

2 40. Consumers, like Plaintiffs, relied on Defendant's "natural" and
3 "made with ingredients from natural sources" labeling statements. Such
4 representations are material to reasonable consumers.

5 41. Plaintiffs and putative class members suffered economic injury as a
6 result of Defendant's actions. Plaintiffs and putative class members spent money
7 that, absent Defendant's actions, they would not have spent.

8 42. Plaintiffs and putative class members are entitled to damages and
9 restitution for the purchase price of the Products and/or the price premium
10 associated with the deceptive representations on the Products' labels. Consumers,
11 including Plaintiffs, would not have purchased Defendant's Products, or would
12 have paid less for the Products, if they had known the Products actually contain an
13 artificial ingredient not made from natural sources.

14 **NO ADEQUATE REMEDY AT LAW**

15 43. Plaintiffs and members of the class are entitled to equitable relief as
16 no adequate remedy at law exists. The statutes of limitations for the causes of
17 action pled herein vary. Class members who purchased the Products more than
18 three years prior to the filing of the complaint will be barred from recovery if
19 equitable relief were not permitted under the UCL.

20 44. The scope of actionable misconduct under the unfair prong of the
21 UCL is broader than the other causes of action asserted herein. It includes
22 Defendant's overall unfair marketing scheme to promote and brand the Products,
23 across a multitude of media platforms, including the Products' labels, packaging,
24 and online advertisements, over a long period of time, in order to gain an unfair
25 advantage over competitor products. Plaintiffs and class members may also be

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https://www.fsis.usda.gov/sites/default/files/media_file/documents/FSIS-GD-2023-0001.pdf (emphasis added)

1 entitled to restitution under the UCL, while not entitled to damages under other
2 causes of action asserted herein (e.g., the CLRA is limited to certain types of
3 plaintiffs (an individual who seeks or acquires, by purchase or lease, any goods or
4 services for personal, family, or household purposes) and other statutorily
5 enumerated conduct).

6 **CLASS ACTION ALLEGATIONS**

7 45. Plaintiffs bring this action as a class action pursuant to Federal Rules
8 of Civil Procedure on behalf of the following Classes (or alternative Classes or
9 Subclasses):

10 **The Nationwide Class**

11 All U.S. citizens who purchased the Products in their respective state of
12 citizenship for personal and household use and not for resale within the
13 applicable statute of limitations and until the date class notice is
14 disseminated.

15 **The California Subclass**

16 All California citizens who purchased the Products in California for
17 personal and household use and not for resale within the applicable statute
18 of limitations and until the date class notice is disseminated.

19 **The New York Subclass**

20 All persons who purchased the Products in New York for personal and
21 household use and not for resale within the applicable statute of limitations
22 and until the date class notice is disseminated.

23 46. The Classes and Subclasses described in this complaint will jointly
24 be referred to the “Class” or the “Classes” unless otherwise stated, and the
25 proposed members of the Classes and Subclasses will jointly be referred to as
26 “Class Members.”

27 47. Plaintiffs and the Class reserve their right to amend or modify the
28 Class definitions with greater specificity or further division into subclasses or
limitation to particular issues as discovery and the orders of this Court warrant.

1 48. Excluded from the Class are: (i) Defendant and its officers, directors,
2 and employees; (ii) any person who files a valid and timely request for exclusion;
3 (iii) judicial officers and their immediate family members and associated court
4 staff assigned to the case; (iv) individuals who received a full refund of the
5 Products from Defendant.

6 49. The Class is appropriate for certification because Plaintiffs can prove
7 the elements of the claims on a classwide basis using the same evidence as would
8 be used to prove those elements in individual actions alleging the same claims.

9 50. Numerosity: Class Members are so numerous that joinder of all
10 members is impracticable. Plaintiffs believe that there are thousands of consumers
11 who are Class Members described above who have been damaged by Defendant's
12 deceptive and misleading practices.

13 51. Commonality: There is a well-defined community of interest in the
14 common questions of law and fact affecting all Class Members. The questions of
15 law and fact common to the Class Members which predominate over any questions
16 which may affect individual Class Members include, but are not limited to:

- 17 a. Whether Defendant is responsible for the conduct alleged herein which
18 was uniformly directed at all consumers who purchased the Products;
- 19 b. Whether Defendant's misconduct set forth in this Complaint
20 demonstrates that Defendant engaged in unfair, fraudulent, or unlawful
21 business practices with respect to the advertising, marketing, and sale of
22 the Products;
- 23 c. Whether Defendant made misrepresentations concerning the Products
24 that were likely to deceive the public;
- 25 d. Whether Plaintiffs and the Class are entitled to money damages and/or
26 restitution under the same causes of action as the other Class Members.

27 52. Typicality: Plaintiffs are members of the Class that Plaintiffs seek to
28 represent. Plaintiffs' claims are typical of the claims of each Class Member in that

1 every member of the Class was susceptible to the same deceptive, misleading
2 conduct and purchased the Products. Plaintiffs are entitled to relief under the same
3 causes of action as the other Class Members.

4 53. Adequacy: Plaintiffs are adequate Class representatives because
5 Plaintiffs' interests do not conflict with the interests of the Class Members
6 Plaintiffs seek to represent; the consumer fraud claims are common to all other
7 members of the Class, and Plaintiffs have a strong interest in vindicating the rights
8 of the class; Plaintiffs have retained counsel competent and experienced in
9 complex class action litigation and Plaintiffs intend to vigorously prosecute this
10 action. Plaintiffs have no interests which conflict with those of the Class. The Class
11 Members' interests will be fairly and adequately protected by Plaintiffs and
12 proposed Class Counsel. Defendant has acted in a manner generally applicable to
13 the Class, making relief appropriate with respect to Plaintiffs and the Class
14 Members. The prosecution of separate actions by individual Class Members would
15 create a risk of inconsistent and varying adjudications.

16 54. The Class is properly brought and should be maintained as a class
17 action because a class action is superior to traditional litigation of this controversy.
18 A class action is superior to the other available methods for the fair and efficient
19 adjudication of this controversy because:

20 a. The joinder of hundreds of individual Class Members is impracticable,
21 cumbersome, unduly burdensome, and a waste of judicial and/or
22 litigation resources;

23 b. The individual claims of the Class Members may be relatively modest
24 compared with the expense of litigating the claim, thereby making it
25 impracticable, unduly burdensome, and expensive to justify individual
26 actions;

27 c. When Defendant's liability has been adjudicated, all Class Members'
28 claims can be determined by the Court and administered efficiently in a

1 manner far less burdensome and expensive than if it were attempted
2 through filing, discovery, and trial of all individual cases;

3 d. This class action will promote orderly, efficient, expeditious, and
4 appropriate adjudication and administration of Class claims;
5 e. Plaintiffs know of no difficulty to be encountered in the management of
6 this action that would preclude its maintenance as a class action;
7 f. This class action will assure uniformity of decisions among Class
8 Members;
9 g. The Class is readily definable and prosecution of this action as a class
10 action will eliminate the possibility of repetitious litigation; and
11 h. Class Members' interests in individually controlling the prosecution of
12 separate actions is outweighed by their interest in efficient resolution by
13 single class action;

14 55. Plaintiffs seek equitable relief on behalf of the Class, on grounds
15 generally applicable to the Class, to require Defendant to provide restitution to
16 Plaintiffs and the Class members.

17 56. Unless the Class is certified, Defendant will retain monies that were
18 taken from Plaintiffs and Class members as a result of Defendant's wrongful
19 conduct.

20 **FIRST CLAIM FOR RELIEF**

21 **Violation of California's Consumers Legal Remedies Act**

22 **Cal. Civ. Code §§ 1750, *et seq.***

23 57. Plaintiffs reallege and incorporate by reference all allegations
24 contained in this complaint, as though fully set forth herein.

25 58. Plaintiffs Ringler, Robles, and Smith bring this claim under the
26 CLRA individually and on behalf of the California Class against Defendant.

27 59. At all times relevant hereto, Plaintiffs Ringler, Robles, and Smith and
28 the members of the Class were "consumer[s]," as defined in California Civil Code

1 section 1761(d).

2 60. At all relevant times, Defendant was a “person,” as defined in
3 California Civil Code section 1761(c).

4 61. At all relevant times, the Products manufactured, distributed,
5 marketed, advertised, and sold by Defendant constituted “goods,” as defined in
6 California Civil Code section 1761(a).

7 62. The purchases of the Products by Plaintiffs Ringler, Robles, and
8 Smith and the members of the Class were and are “transactions” within the
9 meaning of California Civil Code section 1761(e).

10 63. Defendant disseminated, or caused to be disseminated, through its
11 advertising, false and misleading representations, including the Products’ labeling
12 that the Products were “natural” and “made with ingredients from natural sources.”
13 Defendant failed to disclose that the Products contain an artificial ingredient called
14 citric acid. This is a material misrepresentation and omission as reasonable
15 consumer would find the fact that the Products contain an artificial ingredient to
16 be important to their decision in purchasing the Products. Defendant’s
17 representations violate the CLRA in the following ways:

- 18 a. Defendant represented that the Products have characteristics,
19 ingredients, uses, and benefits which they do not have (Cal. Civ. Code §
20 1770(a)(5));
- 21 b. Defendant represented that the Products are of a particular standard,
22 quality, or grade, which it is not (Cal. Civ. Code § 1770(a)(7));
- 23 c. Defendant advertised the Products with an intent not to sell the Products
24 as advertised (Cal. Civ. Code § 1770(a)(9)); and
- 25 d. Defendant represented that the subject of a transaction has been supplied
26 in accordance with a previous representation when it has not (Cal. Civ.
27 Code § 1770(a)(16)).

28 64. Defendant violated the CLRA because the Products were prominently

1 advertised as “natural” and “made with ingredients from natural sources” but the
2 Products contain citric acid, an artificial ingredient not made from natural sources.
3 Defendant knew or should have known that consumers would want to know that
4 the Products contained an artificial ingredient.

5 65. Defendant's actions as described herein were done with conscious
6 disregard of Plaintiffs Ringler, Robles, and Smith's and the Class members' rights
7 and were wanton and malicious.

8 66. Defendant's wrongful business practices constituted, and constitute,
9 a continuing course of conduct in violation of the CLRA, since Defendant is still
10 representing that the Products have characteristics which they do not have.

11 67. Pursuant to California Civil Code section 1782, Plaintiff Ringler
12 notified Defendant in writing by certified mail of the alleged violations of the
13 CLRA and demanded that Defendant rectify the problems associated with the
14 actions detailed above and give notice to all affected consumers of their intent to
15 so act.

16 68. More than thirty days has passed since Plaintiff Ringler sent
17 Defendant a CLRA letter and Defendant has failed to take the corrective action
18 described in Plaintiff's letter. Wherefore, Plaintiffs Ringler, Robles, and Smith
19 seek actual and statutory damages as appropriate, as well as attorneys' fees and
20 costs for Defendant's violations of the CLRA.

21 69. Pursuant to section 1780(d) of the CLRA, below is an affidavit
22 showing that this action was commenced in a proper forum.

SECOND CLAIM FOR RELIEF

Violation of California's Unfair Competition Law

Cal. Bus. & Prof. Code §§ 17200, *et seq.*

26 70. Plaintiffs reallege and incorporate by reference all allegations
27 contained in this complaint, as though fully set forth herein.

28 ||| 71. Plaintiffs Ringler, Robles, and Smith bring this claim under the UCL

1 individually and on behalf of the California Class against Defendant.

2 72. The UCL prohibits any “unlawful,” “fraudulent,” or “unfair” business
3 act or practice and any false or misleading advertising.

4 73. Defendant committed unlawful business acts or practices by making
5 the representations and omitted material facts (which constitutes advertising
6 within the meaning of California Business & Professions Code section 17200), as
7 set forth more fully herein, and by violating California’s Consumers Legal
8 Remedies Act, Cal. Civ. Code §§17500, *et seq.*, California’s False Advertising
9 Law, Cal. Bus. & Prof. § 17500, *et seq.*, 15 U.S.C. § 45, and by breaching express
10 and implied warranties. Plaintiffs Ringler, Robles, and Smith, individually and on
11 behalf of the other Class members, reserves the right to allege other violations of
12 law, which constitute other unlawful business acts or practices. Such conduct is
13 ongoing and continues to this date.

14 74. Defendant committed “unfair” business acts or practices by: (1) engaging in conduct where the utility of such conduct is outweighed by the harm
15 to Plaintiffs Ringler, Robles, and Smith and the members of the Class; (2) engaging
16 in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially
17 injurious to Plaintiffs Ringler, Robles, and Smith and the members of the Class;
18 and (3) engaging in conduct that undermines or violates the intent of the consumer
19 protection laws alleged herein. There is no societal benefit from deceptive
20 advertising. Plaintiffs Ringler, Robles, and Smith and the other Class members
21 paid for Products that are not as advertised by Defendant. Further, Defendant failed
22 to disclose a material fact (that the Products contain an artificial ingredient) of
23 which it had exclusive knowledge. While Plaintiffs Ringler, Robles, and Smith
24 and the other Class members were harmed, Defendant was unjustly enriched by its
25 false misrepresentations and material omissions. As a result, Defendant’s conduct
26 is “unfair,” as it offended an established public policy. There were reasonably
27 available alternatives to further Defendant’s legitimate business interests, other

1 than the conduct described herein.

2 75. Defendant committed “fraudulent” business acts or practices by
3 making the representations of material fact regarding the Products set forth herein.
4 Defendant’s business practices as alleged are “fraudulent” under the UCL because
5 they are likely to deceive customers into believing the Products only contain
6 natural ingredients.

7 76. Plaintiffs Ringler, Robles, and Smith and the other members of the
8 Class have in fact been deceived as a result of their reliance on Defendant’s
9 material representations and omissions. This reliance has caused harm to Plaintiff
10 and the other members of the Class, each of whom purchased Defendant’s
11 Products. Plaintiffs Ringler, Robles, and Smith and the other Class members have
12 suffered injury in fact and lost money as a result of purchasing the Products and
13 Defendant’s unlawful, unfair, and fraudulent practices.

14 77. Defendant’s wrongful business practices and violations of the UCL
15 are ongoing.

16 78. Plaintiffs Ringler, Robles, and Smith and the Class seek pre-judgment
17 interest as a direct and proximate result of Defendant’s unfair and fraudulent
18 business conduct. The amount on which interest is to be calculated is a sum certain
19 and capable of calculation, and Plaintiffs Ringler, Robles, and Smith and the Class
20 seek interest in an amount according to proof.

21 79. Pursuant to California Business & Professions Code section 17203,
22 Plaintiffs Ringler, Robles, and Smith, individually and on behalf of the California
23 Class, seeks (1) restitution from Defendant of all money obtained from Plaintiffs
24 Ringler, Robles, and Smith and the other Class members as a result of unfair
competition; and (2) all other relief this Court deems appropriate, consistent with
25 California Business & Professions Code section 17203.

THIRD CLAIM FOR RELIEF

Violation of the False Advertising Law

Cal. Bus. & Prof. Code §§ 17500, *et seq.*

80. Plaintiffs reallege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

81. Plaintiffs Ringler, Robles, and Smith bring this claim under the FAL individually and on behalf of the California Class against Defendant.

82. The FAL provides that “[i]t is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services” to disseminate any statement “which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading” Cal. Bus. & Prof. Code § 17500.

83. It is also unlawful under the FAL to disseminate statements concerning property or services that are “untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.” *Id.*

84. As alleged herein, Defendant falsely advertised the Products by falsely representing that the Products are “natural” and “made with ingredients from natural sources,” when in fact, the Products contain citric acid, an artificial ingredient.

85. Plaintiffs Ringler, Robles, and Smith have standing to pursue this claim as Plaintiffs Ringler, Robles, and Smith have suffered injury in fact as a result of Defendant's actions as set forth herein. Specifically, prior to the filing of this action, Plaintiffs Ringler, Robles, and Smith purchased one of the Products in reliance on Defendant's false and misleading labeling claim that the Products were "natural" and "made with ingredients from natural sources."

86. Defendant's business practices as alleged herein constitute deceptive,

1 untrue, and misleading advertising pursuant to the FAL because Defendant has
2 advertised the Products in a manner that is untrue and misleading, which
3 Defendant knew or reasonably should have known, and omitted material
4 information from its advertising.

5 87. Defendant profited from its sale of the falsely and deceptively
6 advertised Products to unwary consumers.

7 88. As a result, Plaintiffs, the Class, and the general public are entitled to
8 equitable relief, restitution, and an order for the disgorgement of the funds by
9 which Defendant was unjustly enriched.

10 **FOURTH CLAIM FOR RELIEF**
11 **Breach of Express Warranty**
12 **Cal. Com. Code § 2313(1)**

13 89. Plaintiffs reallege and incorporate by reference all allegations
14 contained in this complaint, as though fully set forth herein.

15 90. Plaintiffs bring this claim for breach of express warranty individually
16 and on behalf of all Classes against Defendant.

17 91. As the manufacturer, marketer, distributor, and seller of the Products,
18 Defendant issued an express warranty by representing to consumers at the point of
19 purchase that the Products were “natural” and “made with ingredients from natural
20 sources.”

21 92. Plaintiffs and the Class reasonably relied on Defendant’s
22 misrepresentations, descriptions and specifications regarding the Products,
23 including the representations that the Products were “natural” and “made with
24 ingredients from natural sources.”

25 93. Defendant’s representations were part of the description of the goods
26 and the bargain upon which the goods were offered for sale and purchased by
Plaintiffs and members of the Class.

27 94. In fact, the Products do not conform to Defendant’s representations
28 because the Products contain citric acid, an artificial ingredient. By falsely

1 representing the Products in this way, Defendant breached express warranties.

2 95. Plaintiffs relied on Defendant's representations on the Products'
3 labels and advertising materials which provide the basis for an express warranty
4 under California law.

5 96. As a direct and proximate result of Defendant's breach, Plaintiffs and
6 Members of the Class were injured because they: (1) paid money for Products that
7 were not as Defendant represented; (2) were deprived of the benefit of the bargain
8 because the Products they purchased were different than Defendant advertised;
9 and (3) were deprived of the benefit of the bargain because the Products they
10 purchased had less value than if Defendant's representations about the
11 characteristics of the Products were truthful.

12 97. Had Defendant not breached express warranties by making false
13 representations as alleged herein, Plaintiffs and Class Members would not have
14 purchased the Products or would not have paid as much as they did for them.

15 **FIFTH CLAIM FOR RELIEF**

16 **Breach of Implied Warranty**

17 **Cal. Com. Code § 2314**

18 98. Plaintiffs reallege and incorporate by reference all allegations
19 contained in this complaint, as though fully set forth herein.

20 99. Plaintiffs bring this claim for breach of implied warranty individually
21 and on behalf of all Classes against Defendant.

22 100. Plaintiffs and the Class purchased the Products manufactured,
23 advertised, and sold by Defendant, as described herein.

24 101. Defendant, through its acts and omissions set forth herein, in the sale,
25 marketing, and promotion of the Products, misrepresented the characteristics of
the Products to Plaintiffs and the Class.

26 102. Defendant is a merchant with respect to the goods of this kind which
27 were sold to Plaintiffs and the Class, and there was, in the sale to Plaintiffs and
28 other consumers, an implied warranty that those goods were merchantable.

103. However, Defendant breached that implied warranty in that the Products were not “natural” and contained citric acid, an artificial ingredient that is not made “from natural sources.”

104. As an actual and proximate result of Defendant's conduct, Plaintiffs and the Class did not receive goods as impliedly warranted by Defendant to be merchantable in that the Products did not conform to promises and affirmations made on the label of the Products.

105. Plaintiffs and the Class have sustained damages as a proximate result of the foregoing breach of implied warranties in the amount of the Products' price premium.

SIXTH CLAIM FOR RELIEF

Negligent Misrepresentation

106. Plaintiffs reallege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

107. Plaintiffs bring this claim for negligent misrepresentation individually and on behalf of all Classes against Defendant.

108. Defendant had a duty to disclose to Plaintiffs and Class Members correct information as to the quality and characteristics of the Products because Defendant was in a superior position than Plaintiffs and Class Members such that reliance by Plaintiffs and Class Members was justified. Defendant possessed the skills and expertise to know the type of information that would influence a consumer's purchasing decision.

109. During the applicable class period, Defendant negligently or carelessly misrepresented, omitted, and concealed from consumers material facts regarding the quality and characteristics of the Products, including the fact that the Products do contain artificial ingredients, despite being advertised as “natural” and “made with ingredients from natural sources.”

110. Defendant made such false and misleading statements and omissions with the intent to induce Plaintiffs and Class Members to purchase the Products at

1 a premium price.

2 111. Defendant was careless in ascertaining the truth of its representations
3 in that it knew or should have known that Plaintiffs and Class Members would be
4 overpaying for the Products.

5 112. Plaintiffs and Class Members were unaware of the falsity in
6 Defendant's misrepresentations and omissions and, as a result, justifiably relied on
7 them when making the decision to purchase the Products.

8 113. Plaintiffs and Class Members would not have purchased the Products
9 or paid as much for the Products if the true facts had been known.

10 **SEVENTH CLAIM FOR RELIEF**

11 **Intentional Misrepresentation/Fraud**

12 114. Plaintiffs reallege and incorporate by reference all allegations
13 contained in this complaint, as though fully set forth herein.

14 115. Plaintiffs bring this claim for intentional misrepresentation
15 individually and on behalf of all Classes against Defendant.

16 116. Defendant had a duty to disclose to Plaintiffs and Class Members
17 correct information as to the quality and characteristics of the Products because
18 Defendant was in a superior position than Plaintiffs and Class Members such that
19 reliance by Plaintiffs and Class Members was justified. Defendant possessed the
20 skills and expertise to know the type of information that would influence a
consumer's purchasing decision.

21 117. During the applicable class period, Defendant intentionally
22 misrepresented, omitted, and concealed from consumers material facts regarding
23 the quality and characteristics of the Products, including that the Products contain
24 an artificial ingredient called citric acid, despite the Products' "natural" and "made
25 with ingredients from natural sources" representations. These representations were
26 material and were uniformly made.

27 118. As noted in detail above, these representations were false and
28 misleading, as the Products contain citric acid, an artificial ingredient not made

1 from natural sources. Defendant made these misrepresentations with actual
2 knowledge of their falsity and/or made them with fraudulent intent.

3 119. Defendant made such false and misleading statements and omissions
4 with the intent to induce Plaintiffs and Class Members to purchase the Products at
5 a premium price, deprive Plaintiffs and Class Members of property or otherwise
6 causing injury, and thus, Defendant has committed fraud.

7 120. Defendant's deceptive or fraudulent intent is evidenced by motive
8 and opportunity. Defendant knew that consumers would pay more for products if
9 they believed they were natural and made with ingredients from natural sources.
10 For that reason, Defendant misrepresented the Products so that Defendant could
11 realize greater profits. Defendant knew that consumers would place trust and
12 confidence in its Products' claims and rely thereon in their purchases of the
13 Products.

14 121. Plaintiffs and the Class Members were unaware of the falsity in
15 Defendant's misrepresentations and omissions and, as a result, justifiably relied on
16 them when making the decision to purchase the Products.

17 122. As a proximate result of Defendant's intentional misrepresentations,
18 Plaintiffs and the Class were induced to purchase the Products at a premium.

19 123. Plaintiffs and the Class Members would not have purchased the
20 Products or paid as much for the Products if the true facts had been known.

21 124. As a result of their reliance, Plaintiffs and Class Members were
22 injured in an amount to be proven at trial, including, but not limited to, their lost
23 benefit of the bargain and overpayment at the time of purchase.

24 125. Defendant's conduct was knowing, intentional, with malice,
25 demonstrated a complete lack of care, and was in reckless disregard for the rights
26 of Plaintiffs and Class Members.

EIGHTH CLAIM FOR RELIEF

Violations of New York General Business Law § 349

126. Plaintiffs reallege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

127. Plaintiff Rabinowitz brings this claim on behalf of the New York Class.

128. New York's General Business Law § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce.

129. In the sale of Products throughout the state of New York, at all relevant times herein, Defendant conducted business and trade within the meaning and intent of New York's General Business Law § 349.

130. Plaintiff Rabinowitz and the New York Class members are consumers who purchased the Products from Defendants for their personal use.

131. By the acts and conduct alleged herein, Defendant engaged in deceptive, unfair, and misleading acts and practices by conspicuously representing on the packaging of the Products that they are “natural” and “made with ingredients FROM NATURAL SOURCES.”

132. Despite these representations, however, the Products contain the non-natural ingredient citric acid.

133. The foregoing deceptive acts and practices were directed at consumers.

134. The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the nature and value of the Products.

135. As a result of Defendant's deceptive practices, Plaintiff Rabinowitz and the New York Class members suffered an economic injury because they would not have purchased or would have paid less for the Products had they known the veracity of Defendants' misrepresentations.

1 136. On behalf of herself and the New York Class members, Plaintiff
2 Rabinowitz seeks to recover actual damages or fifty dollars per unlawful
3 transaction (i.e., for each sale of the Products), whichever is greater, three times
4 actual damages, and reasonable attorneys' fees and costs.

NINTH CLAIM FOR RELIEF

Violations of New York General Business Law § 350

7 137. Plaintiffs reallege and incorporate by reference all allegations
8 contained in this complaint, as though fully set forth herein.

9 138. Plaintiff Rabinowitz brings this claim on behalf of the New York
10 Class.

11 139. New York's General Business Law § 350 prohibits false advertising
12 in the conduct of any business, trade, or commerce.

13 140. Defendant violated New York General Business Law § 350 by
14 representing on the packaging of the Products that they are “natural” and “made
15 with ingredients FROM NATURAL SOURCES.”

16 141. Despite these representations, however, the Products contain the non-
17 natural ingredient citric acid.

18 142. The foregoing advertising was directed at consumers and was likely
19 to mislead a reasonable consumer acting reasonably under the circumstances.

143. Defendants' misrepresentations have resulted in consumer injury or
harm to the public interest.

144. As a result of Defendants' false advertising, Plaintiff Rabinowitz and
the New York Class members suffered an economic injury because they would not
have purchased or would have paid less for the Products had they known the
veracity of Defendants' misrepresentations.

26 145. On behalf of herself and the New York Class members, Plaintiff
27 Rabinowitz seeks to recover their actual damages or five hundred dollars per

1 unlawful transaction (i.e., for each sale of the Products), whichever is greater, three
2 times actual damages, and reasonable attorneys' fees and costs.

REQUEST FOR RELIEF

4 146. Plaintiffs, individually, and on behalf of all others similarly situated,
5 requests for relief pursuant to each claim as follows:

- a. Declaring that this action is a proper class action, certifying the Class as requested herein, designating Plaintiffs as the Class Representative and appointing the undersigned counsel as Class Counsel;
- b. Ordering restitution and disgorgement of all profits and unjust enrichment that Defendant obtained from Plaintiffs and the Class members as a result of Defendant's unlawful, unfair, and fraudulent business practices;
- c. Ordering damages in amount which is different than that calculated for restitution for Plaintiffs and the Class;
- d. Ordering Defendant to pay attorneys' fees and litigation costs to Plaintiffs and the other members of the Class;
- e. Ordering statutory damages in the amount of \$50 per transaction pursuant to New York General Business Law § 349 and statutory damages in the amount of \$500 per transaction pursuant to New York General Business Law § 350 for the New York Class members;
- f. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded; and
- g. Ordering other relief as may be just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

1 Dated: September 8, 2025

CROSNER LEGAL, P.C.

3 By: /s/ Craig W. Straub

4 Craig W. Straub

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15 Tel: (866) 276-7637

16 *Attorneys for Plaintiffs and the Proposed*
17 *Class*

18 **Civil Code Section 1780(d) Venue Affidavit**

19 I am an attorney duly licensed to practice before all of the courts of the State
20 of California. I am one of the counsel of record for Plaintiffs. This declaration is
21 made pursuant to § 1780(d) of the California Consumers Legal Remedies Act.
22 Defendant has done, and is doing business in California, including in this District.
23 Such business includes the marketing, promotion, distribution, and sale of the
24 Products. I declare under penalty of perjury under the laws of the State of
25 California and the United States that the foregoing is true and correct.

26 Executed on September 8, 2025, in San Diego, California.

27 Crosner Legal, P.C.

28 By: /s/ Craig W. Staub

CRAIG W. STRAUB